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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,828	10/24/2003	Daniel James Dickinson	TE9A; P025A	9259
7590 Themi Anagnos 1155 Rose Lake Zurich, IL, 60047				
EXAMINER				
RODRIGUEZ, RUTH C				
ART UNIT		PAPER NUMBER		
3677				
MAIL DATE		DELIVERY MODE		
03/19/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/692,828

**Applicant(s)**

DICKINSON ET AL.

**Examiner**

Ruth C. Rodriguez

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17, 20-31, 33-41, 44-55, 58-69 and 72-100 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 20-31, 33-41, 44-55, 58-69 and 72-100 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 3-7, 9-12, 14-17, 20-29, 33, 35-39, 41, 45-47, 49-53, 55, 59-61, 63-67, 69 and 73-76 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-62 of U.S. Patent No. 6,691,380.

Although the conflicting claims are not identical, they are not patentably distinct from each other because they both have a hindrance provided between the peak and the free end.

3. Claims 77-100 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-62 of U.S. Patent No. 6,691,380 in view of Smith (U.S. Patent No. 5,987,714). Vassiliou discloses the claimed invention when the claim limitations are given its broadest interpretation. Smith teaches the use of an elastic body in combination with the clip.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

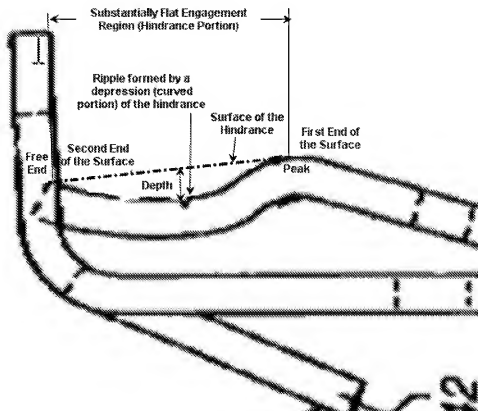
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 6, 8, 11-13, 16, 17, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benedetti (US 4,402,118) in view of Holton (US 3,525,129).

A spring fastener (10) comprises a first side (12), a second side (14) opposite the first side, a bottom portion (54) and a top portion (Figs. 1-8). The first side is connected to the second side thereby forming a U-shaped structure having a cavity between the first side and the second side (Figs. 1-8). A bottom portion (54) connects the first side and the second side (Figs. 1-8). The first side comprises first barbs (66) having first front ends (68) and a first engagement spring (34) is connected to the first side in the vicinity of the bottom portion. The second side comprises second barbs (68) having second front ends and a second engagement spring (36) connected to the second side in the vicinity of the bottom portion (Figs. 1-8). Each of the first and second engagement springs has a free end (free end of 34 or 36) in the vicinity of the top portion (Figs. 1-8). Each of the first and second engagement springs also comprises a peak (46,48) and an engagement region substantially flat engagement region with a hindrance portion (region of the engagement spring between 46 and the free end of the spring 34 or region of engagement spring between 48 and the free end of the spring 36) between a free end and a peak in the vicinity of the peak (Figs. 1-8). The hindrance portion comprises only one ripple (defined by the recess between 46 and the free end of the spring 34 and defined by the recess between 48 and the free end of the spring 36) having the form of a depression (recess provided between 46 and the free end of the spring 34 and recess provided between 48 and the free end of the spring 36) on the hindrance portion. The depression has a deepest part, a back side (near the free end)

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substantially lacking a front side (near the peak) and a width (Figs. 1-8). The hindrance portion has a surface (between the peak and the free end) wherein the depth of the ripple is the distance between the surface of the hindrance and the deepest part of the ripple (Figs. 1-8).



The ripple provides increased removal force and when the fastener is pulled by an extension (20) of a first part (16) engaged to the first and second barbs after the fastener has been inserted into a slot (28) of a second part (26) (Figs. 1-8). The slot having a slot width and edges on which edges the engagement region is engaged (Figs. 1-8). It is inherent that the increased removal force is due to the hindrance portion and the fastener can be extracted when pulled by the extension without damage to the fastener as Figs.

1-8 since the spring fastener only engages the sides of the slot in order to retain the spring fastener and upon application of a considerable amount of force the spring fastener can deform allowing the disengagement of spring fastener and the slot without causing any damage to the spring fastener. Benedetti fails to disclose that the spring fastener further comprises a relief opening in the vicinity of the bottom of the spring fastener. However, Holton teaches a spring fastener comprises a first side (38) and a second side (38a) opposite the first side (Figs. 4-6). The first side is connected to the second side thereby forming a U-shaped structure having a cavity between the first side and the second side (Figs. 4-6). A bottom portion connects the first side and the second side and a top portion (Figs. 4-6). The spring fastener further comprises a relief opening (70) in the vicinity of the bottom of the spring fastener. The relief opening increases deformability or collapsibility of the body section making it easier to secure the fastener on to a supporting panel or part (C. 4, l. 16-17). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a relief opening in the vicinity of the bottom of the spring fastener as taught by Holton in the fastener of Benedetti. Doing so, increases deformability or collapsibility of the U-shaped structure making it easier to secure the fastener on to a supporting panel or part.

Benedetti also discloses that:

- The fastener has been made of a material having a thickness (measured between the peaks of the first and second engagement springs). The depth of the ripple is smaller than the thickness (Figs. 1-8).

- The ripple width (measured from the peak to the free end) of each engagement spring is larger than the depth of the ripple.
- The back side has the form of a curvature with a gradually decreased slope (Figs. 1-8).
- The barbs are selected from a group consisting essentially of: first barbs being outer barbs and second barbs being inner barbs where the first barbs are outside outer barbs and the second barbs are inside outer barbs and first barbs being inner barbs and the second barbs being inner barbs (Figs. 1-8).
- The fastener has a width in the vicinity of the top portion of the fastener that is at least 60% as wide as the slot width (Figs. 1, 3 and 5-7).

Benedetti discloses a spring fastener with all the limitations listed above in paragraph 3 for the rejection of claims 11. Benedetti fails to disclose that the gradually decreasing slope has the shape of an arch in the range of 50-70 degrees and the arch has a radius of 0.03 to 0.05 mm. However, it would have been obvious matter of design choice to provide a gradually decreasing slope has the shape of an arch in the range of 50-70 degrees and the radius of the arch being 0.03 to 0.05 mm, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237, (CCPA 1955).

Benedetti discloses a spring fastener with all the limitations listed above in paragraph 3 for the rejection of claims 11. Benedetti fails to disclose the dimensions of the spring fastener. However, it would have been obvious matter of design choice to



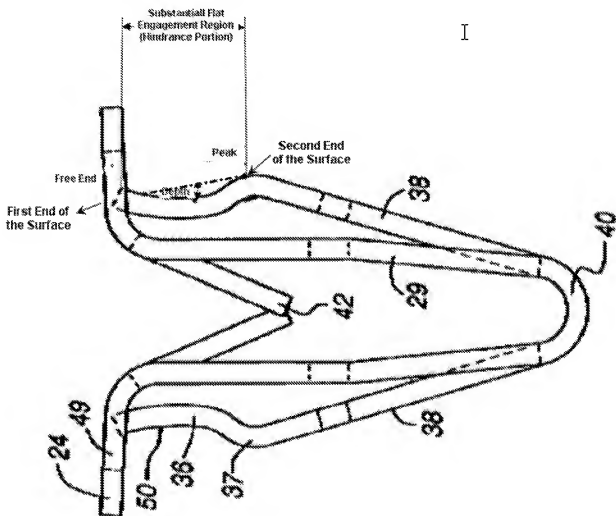
provide the dimension cited in the claims since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237, (CCPA 1955).

6. Claims 4, 6, 8, 11-13, 16, 17, 25, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osterland et al. (US 6,928,705 B2) in view of Holton (US 3,525,129).

Osterland discloses a spring fastener (20,120) comprises a first side (22,122) and a second side (22,122) opposite the first side (Figs. 1-21). The first side is connected to the second side thereby forming a U-shaped structure (20,120) having a cavity between the first side and the second side (Figs. 1-21). A bottom portion (40,140) connects the first side and the second side and a top portion (24,124). The first side comprises first barbs (26,126) having first front ends and a first engagement spring (28,128). The first engagement spring connected to the first side in the vicinity of the bottom portion (Figs. 1-21). The second side comprises second barbs (26,126) having second front ends and a second engagement spring (28,128). The second engagement spring connected to the second side in the vicinity of the bottom portion (Figs. 1-21). Each of the first and second engagement springs has a peak and an engagement region (36,136) with a hindrance portion (region of the engagement spring between 37,137 and the free end of the spring 28,128) between the free end and the peak (37,137) in the vicinity of the peak (Figs. 1-21). The hindrance portion comprises only one ripple having the form of a depression (recess provided between 37,137 and the free end of the spring 28,128) on the hindrance portion. The depression has a deepest part, a backside substantially lacking a

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front side and a width (Figs. 1-8). The hindrance portion has a surface (between 37,137 and the free end of the spring 28,128) wherein the depth of each ripple is the distance between the surface of the hindrance and the deepest part of the respective ripple (Figs. 1-21).



It is inherent that the increased removal force is due to the hindrance portion and the fastener can be extracted when pulled by the extension without damage to the fastener as Figs. 1-8 since the spring fastener only engages the sides of the slot in order to retain

the spring fastener and upon application of a considerable amount of force the spring fastener can deform allowing the disengagement of spring fastener and the slot without causing any damage to the spring fastener. Osterland fails to disclose that the spring fastener further comprises a relief opening in the vicinity of the bottom of the spring fastener. However, Holton teaches a spring fastener comprises a first side (38) and a second side (38a) opposite the first side (Figs. 4-6). The first side is connected to the second side thereby forming a U-shaped structure having a cavity between the first side and the second side (Figs. 4-6). A bottom portion connects the first side and the second side and a top portion (Figs. 4-6). The spring fastener further comprises a relief opening (70) in the vicinity of the bottom of the spring fastener. The relief opening increases deformability or collapsibility of the body section making it easier to secure the fastener on to a supporting panel or part (C. 4, l. 16-17). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a relief opening in the vicinity of the bottom of the spring fastener as taught by Holton in the fastener of Osterland. Doing so, increases deformability or collapsibility of the U-shaped structure making it easier to secure the fastener on to a supporting panel or part.

Osterland also discloses that:

- The fastener has been made of a material having a thickness (measured between the peaks of the first and second engagement springs). The depth of the ripple is smaller than the thickness (Figs. 1-21).
- The ripple width (measured from the peak to the free end) of each engagement spring is larger than the depth of the ripple (Figs. 1-21).

- The back side has the form of a curvature with a gradually decreasing slope (Figs. 1-21).
- The barbs are selected from a group consisting essentially of: first barbs being outer barbs and second barbs being inner barbs where the first barbs are outside outer barbs and the second barbs are inside outer barbs and first barbs being inner barbs and the second barbs being inner barbs (Figs. 1-21).
- The fastener has a width in the vicinity of the top portion of the fastener that is at least 60% as wide as the slot width (Figs. 10A-11 and 20A-21).
- The fastener further comprises additional lower barbs (137) pointing inwardly and originating from the vicinity of the bottom portions of the first side and the second side of the fastener (Figs. 12-21).
- Each side of the spring fastener has only one upper barb and one lower barb (Figs. 12-21). The upper barb of one side facing the lower barb of the other side and vice versa (Figs. 12-21).

Osterland discloses a spring fastener with all the limitations listed above in paragraph 3 for the rejection of claims 11. Osterland fails to disclose that the gradually decreasing slope has the shape of an arch in the range of 50-70 degrees and the arch has a radius of 0.03 to 0.05 mm. However, it would have been obvious matter of design choice to provide a gradually decreasing slope has the shape of an arch in the range of 50-70 degrees and the radius of the arch being 0.03 to 0.05 mm, since such a modification would have involved a mere change in the size of a component. A change

is size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237, (CCPA 1955).

Osterland discloses a spring fastener with all the limitations listed above in paragraph 3 for the rejection of claims 11. Osterland fails to disclose the dimensions of the spring fastener. However, it would have been obvious matter of design choice to provide the dimension cited in the claims since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237, (CCPA 1955).

#### ***Allowable Subject Matter***

7. Claims 1-3, 5, 7, 1, 14, 22, 26, 33-41, 44-55, 58-69, 72-78 and 83-100 would be allowable if the Applicant overcomes the double patenting set forth in this Office action.

8. Claims 20, 21, 23, 24, 28, 29 and 79-82 would be allowable if the Applicant overcomes the double patenting rejection set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

9. Applicant's arguments with respect to claim 4, 6, 8, 11-13, 16, 17, 25, 30 and 31 are have been considered but are moot in view of the new ground(s) of rejection.

10. The Examiner will like to point out that the text of the canceled claims should not be included in the listing of claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor D. Batson can be reached on (571) 272-6987.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jennifer H Gay/  
Supervisory Patent Examiner, Art  
Unit 3676

rcr

March 21, 2008